

**BEFORE THE COMMISSION OF FIVE JUDGES
APPOINTED BY
THE SUPREME COURT OF OHIO**

In re Judicial Campaign Complaint
Against Per Due

Case No. 02-1745

OPINION

This matter came to be reviewed by a commission of five judges appointed by the Supreme Court of Ohio pursuant to Rule II, Section 5(E)(1) of the Rules for the Government of the Judiciary of Ohio and R.C. 2701.11. The commission members are: Judge Judith A. Nicely, chairman; Judge Robert S. Kraft, Judge Deborah A. Alspach, Judge Joseph M. Houser, and Judge Kathleen A. Sutula.

Complainant Alfred Mackey, is a candidate in the November 2002 election for the Ashtabula County Court of Common Pleas. Respondent, David Per Due, is complainant's opponent in the November 2002 election.

The facts of this matter are not in dispute. Complainant alleges that respondent failed to timely satisfy the judicial campaign course requirement imposed under Canon 7(B)(5) of the Code of Judicial Conduct, and respondent admits that he did not timely satisfy the requirement. After the grievance was filed and on the same day probable cause was found, respondent attended the course and subsequently provided proof of attendance. The matter was uncontested before the hearing panel appointed by the Board of Commissioners on Grievances and Discipline, and neither complainant nor respondent indicated a desire to object to or contest the findings and recommendation filed by the hearing panel on October 10, 2002. The hearing panel's report is attached as an appendix to this opinion.

On October 22, 2002, this commission convened to review the record in this matter and the report of the hearing panel. Upon review, the commission adopts the findings of fact set forth in the hearing panel's report and finds clear and convincing evidence that respondent violated Canon 7(B)(5) by failing to complete a two-hour course on judicial campaign practices, finance, and ethics at least one year prior to or thirty days after respondent's candidacy was certified by the Ashtabula County Board of Elections. The commission further adopts the recommendation of the hearing panel and imposes a fine of \$100.00, with the fine suspended, and costs.

The Secretary shall issue a statement of costs before this commission and instructions regarding the payment of those costs and costs certified by the Board of Commissioners on Grievances and Discipline. This order shall be published by the Supreme Court Reporter in the manner prescribed by Rule V, Section 8(D)(2) of the Rules for the Government of the Bar of Ohio.

So Ordered.

Judge Judith A. Nicely, Chair

Judge Robert S. Kraft

Judge Deborah A. Alspach

Judge Joseph M. Houser

Judge Kathleen A. Sutula

Dated: October 28, 2002